



## FISCAL MEMORANDUM

### HB 1987 - SB 2852

March 8, 2022

**SUMMARY OF BILL AS AMENDED (015186):** Requires, upon request or application for a connection of utility service by a customer, certain utilities to provide the customer the connection cost in writing with an itemized and detailed description of the costs that comprise the connection cost.

If a utility cannot promptly provide the customer with the connection cost, then the utility shall within 14 days from completion of the approved design:

- Provide to the customer in writing the connection cost and a written itemized and detailed description of the costs;
- Provide to the customer in writing the time reasonably necessary to calculate or determine the connection cost or to provide a written itemized and detailed description of the connection cost; or
- Request from the customer information necessary to calculate or determine the connection cost and to provide a written itemized and detailed description to the customer as soon as practicable.

Prescribes penalties for any utility that fails to comply.

### FISCAL IMPACT OF BILL AS AMENDED:

**Other Fiscal Impact – Due to multiple unknown factors, any recurring increase to state fee revenue and corresponding, mandatory increase to local expenditures cannot reasonably be determined.\***

Assumptions for the bill as amended:

- Per the language of the proposed legislation:
  - A “utility” means:
    - An entity subject to the jurisdiction of the Water and Wastewater Financing Board (WWFB), which includes:
      - Any county, metropolitan government, or incorporated town or city empowered to provide water or wastewater services; and
      - Any treatment authority, created pursuant to the Water and Wastewater Treatment Authority Act or the Regional Water and Wastewater Treatment Authority Act or by any public or private

act of the General Assembly, that operates a water or wastewater facility.

- An entity subject to the jurisdiction of the Utility Management Review Board (UMRB), which includes a utility district created in accordance with the Utility District Law of 1937, or by any public or private act.
- A county-owned or municipal-owned utility that provides electric, broadband, natural gas, or propane services to the public;
- A public utility; and
- A cooperative.
- A “connection cost” means:
  - A rate, fee, or charge, or an estimate of a rate, fee, or charge, for a connection of utility service that is necessary for the customer or a potential customer to pay to the utility system to receive a utility service from the utility system to an unserved location or to upgrade a service to a location on or after the effective date of the proposed legislation; and
  - Does not include the cost for the construction of utility system improvements when the utility's rules, regulations, or policies require the customer to hire a qualified contractor at the customer's expense to construct the necessary utility system improvements and to dedicate the utility system improvements constructed to the utility system upon their completion by the customer.
- Public utilities, as defined by Tenn. Code Ann. § 65-4-101, do not include state or locally owned utilities, but only to the extent that the locally-owned entity distributes natural gas to retail customers within the municipal boundaries or urban growth boundaries of a Tennessee city or town adjoining such bordering state.
- Electric cooperatives are nonprofit, non-governmental entities that are authorized to provide community utility services within the cooperative’s service area. Any fiscal impact to state or local government is not significant.
- It is assumed that any locally-owned utility, utility district, local entity empowered to provide water and wastewater services, and treatment authority already possess an itemized and detailed description of the costs that comprise the rate, fee, charge, or estimate for existing structures and will be able to provide the requested information either promptly or within 14 days from completion of the approved design, or provide an estimate of the time necessary to fulfill the request utilizing existing staff and resources. Therefore, any impact to local government expenditures is estimated to be not significant.
- The proposed legislation prescribes the following penalties:
  - The WWFB and UMRB shall order reasonable sanctions against utilities under their respective jurisdictions that fail to comply.
  - The Comptroller of the Treasury (COT), or the COT’s designee, shall order reasonable sanctions against any locally-owned utility and cooperative that fails to comply.
  - The Tennessee Public Utility Commission (TPUC) shall order reasonable sanctions against public utilities.

- Any impact to state expenditures as a result of requiring the above entities to impose sanctions against utilities under their respective jurisdictions is estimated to be not significant.
- Based on information provided by the COT, the COT assesses cooperatives for local property tax purposes, but has no audit authority over electric cooperatives unless they receive \$750,000 or more in state and federal grants, which triggers a federal single audit. No more than three cooperatives in the state are expected to meet this criterion each year.
  - It is not known how the COT would enforce reasonable sanctions against cooperatives.
- Due to unknown factors such as how many utilities will receive a request and fail to comply and the scope of any sanction, if financial, any recurring decrease to local revenue from sanctions preventing utilities from accessing funding or increase to state fee revenue and local expenditures cannot be reasonably determined.

## **IMPACT TO COMMERCE OF BILL AS AMENDED:**

**Other Commerce Impact – The extent and timing of any increase to business expenditures due to possible payment of penalties cannot be reasonably determined.**

Assumptions for the bill as amended:

- The proposed legislation will require public utilities and cooperatives to provide an itemized and detailed description of the connection cost upon receipt of a request. It is assumed that such utilities already possess this information for existing connections or will be able to provide the information within the timeline required by the proposed legislation and, therefore, requiring the information to be provided upon request will not impact business expenditures.
- The proposed legislation requires the TPUC to impose reasonable sanctions against public utilities that do not comply with the requirement to provide certain information upon request.
- The proposed legislation requires the COT to impose reasonable sanctions against electric cooperatives. The extent of any increase to cooperative expenditures cannot reasonably be determined.
- Due to unknown factors such as how many utilities will fail to comply and the scope of any sanction, if financial, any increase to business expenditures cannot be reasonably determined.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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